

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/11/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000727

FILED: _____

BRYAN BERNARD CANDELARIA

CHARLES C SCHOCK

v.

STATE OF ARIZONA

ROGER KEVIN HAYS

MESA CITY COURT
REMAND DESK CR-CCC
MESA MUNICIPAL COURT
HONORABLE ROBIN ALLEN
245 W SECOND STREET
MESA AZ 85201-6599

MINUTE ENTRY

MESA CITY COURT

Cit. No. #777168

Charge: 1. DRIVING WHILE SUSPENDED/REVOKED

DOB: 07/25/75

DOC: 06/19/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/11/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000727

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the Mesa City Court and the Memoranda submitted by counsel.

On June 19, 2001, Appellee, Bryan Candelaria was arrested and charged with the crime of Driving While License Revoked or Suspended, a class 1 misdemeanor offense in violation of A.R.S. Section 28-3473(A). Appellee filed a Motion to Dismiss alleging that the Mesa Police lacked probable cause to stop his vehicle on the date of his arrest. The trial court conducted an evidentiary hearing on September 17, 2001. On September 19, 2001 the trial judge granted Appellee's Motion to Dismiss. The trial court made no findings of fact or conclusions of law in its minute entry order of September 19, 2001. Following this order, the State filed a timely Notice of Appeal.

The only issue raised on appeal concerns the sufficiency of probable cause possessed by the officers to arrest the Appellee. Probable cause to make an arrest exists when the police have reasonably trustworthy information that would lead a person of reasonable caution to believe that an offense has been committed and that the person to be arrested committed it.² This Court's review on the sufficiency of probable cause is *de novo*; however, this Court must defer to the trial court's factual findings that form the basis for its legal rulings.³ And, if the trial court's ruling on the existence of probable cause is supported by substantial evidence in the record this Court must affirm the trial court's ruling.⁴ This Court must also defer to the trial court's findings where there are conflicts within the evidence.⁵ The trial court as fact finder occupies the most advantageous position of weighing the credibility, veracity, and reliability of witnesses and other evidence.

² State v. Spears, 184 Ariz. 277, 908 P.2d 1062, cert.denied 519 U.S. 967, 117 S.Ct. 393, 136 L.Ed. 2d 308 (1996); State v. Nelson, 129 Ariz. 582, 633 P.2d 391 (1981).

³ State v. Gonzalez-Gutierrez, 187 Ariz. 116, 927 P.2d 776 (1996).

⁴ Pharo v. Tucson City Court, 167 Ariz. 571, 810 P.2d 569 (App. 1990)

⁵ State v. Plew, 155 Ariz. 44, 745 P.2d 102 (1987).

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/11/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000727

Warrantless arrests are authorized by A.R.S. Section 13-3883 and require "probable cause to believe the person to be arrested has committed the offense". Probable cause has also been defined as "information sufficient to justify belief by a reasonable man that an offense is being or has been committed."⁶ The finder of fact must determine from the evidence what facts and circumstances the police were aware of at the time the arrest was made. The trial court must determine if these facts and circumstances were sufficient to give the police officers reasonable cause to believe that their suspect had committed an offense.⁷

At the evidentiary hearing held on September 17, 2001, Officer Bradsby of the Mesa Police Department testified. Officer Bradsby stated that he was doing routine Motor Vehicle Department checks on automobiles when he observed Appellee's vehicle drive past. The MVD record check came back "okay", meaning that the vehicle was properly registered and insured.⁸ Officer Bradsby also ran a records check on the owner of the vehicle and found it to be registered to Bryan Candelaria and that Bryan Candelaria had a suspended and revoked driver's license.⁹ The officer obtained a description of the Bryan Candelaria who had a suspended license and found this description consistent with the driver of the vehicle he had just observed. The following questions and answers were given to the trial court:

Q.(by Mr. Schock): So would it be fair to say that the decision to stop the driver was based upon the fact that his age appeared to be right, his build appeared

⁶ *Pharo v. Tucson City Court*, 167 Ariz. at 573, 810 P.2d at 571, citing *State v. Heberly*, 120 Ariz. 541, 544, 587 P.2d 260, 263 (App. 1978).

⁷ *State v. Boles*, 183 Ariz. 563, 905 P.2d 572, review granted in part, denied in part, opinion vacated 188 Ariz. 129, 933 P.2d 1197 (App. 1995).

⁸ R.T. of September 17, 2001 at page 4.

⁹ Id.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/11/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000727

to be right, and although you couldn't be specific as to the color of his hair, at least it was dark and those are the three pieces of identifying information used to stop him (Appellee)?

A(by Officer Bradsby): Yes, and that was the vehicle also that belonged to that owner. Yes.

Q: The fact that the vehicle was registered to this individual?

A: Yes.

Q: And you had a suspicion that it might Be the owner who was driving the vehicle?

A: Yes.¹⁰

This Court determines *de novo* that these facts were sufficient to give Officer Bradsby probable cause to believe that an offense (driving on a suspended driver's license) was being committed and that Appellee had committed that offense. The trial court erred in granting Appellee's Motion to Dismiss.

IT IS THEREFORE ORDERED reversing the order of the trial court of September 19, 2001 which granted Appellee's Motion to Dismiss.

IT IS FURTHER ORDERED remanding this matter back to the Mesa City Court for all future and further proceedings in this case, including a trial.

¹⁰ Id. at pages 7-8.
Docket Code 512